

REDACTED VERSION FOR PUBLIC INSPECTION

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Revision of the Commission's Rules) CC Docket No. 94-102
To Ensure Compatibility with)
Enhanced 911 Emergency Calling Systems)
_____)

To: The Commission

**REQUEST FOR A LIMITED WAIVER
OF UNITED STATES CELLULAR CORPORATION**

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United States Cellular Corporation ("USCC"), by its undersigned counsel, hereby submits this Request for a Limited Waiver of Section 20.18(g)(1)(v) of the Commission's rules which requires that 95 percent of all handsets in use on USCC's network be GPS-compliant by December 31, 2005. *See* 47 C.F.R. § 20.18(g)(1)(v). USCC has achieved a GPS-compliant penetration rate of 90 percent for its customers using handsets with identified GPS capabilities and expects to reach 91 percent on or around December 31, 2005. Collectively, these customers represent approximately 93 percent of USCC's customer base. Approximately seven percent of USCC's customers are using handsets with unidentified GPS capabilities.¹

As demonstrated more fully below, USCC has been unable to achieve compliance with the 95 percent penetration requirement due to circumstances beyond its control. Specifically, USCC's compliance efforts have been slowed by the unwillingness of a subset of long-time customers with relatively low monthly usage levels to swap-out their current handsets.

¹ In an assumed worse case scenario, if all seven percent of these unidentified handsets are non-compliant, USCC's overall GPS-capable handset penetration is 83 percent as of November 2005 and is expected to increase to 85 percent by the end of 2005.

This customer reluctance has been fueled, at least in part, by the lack of Phase II deployments by PSAPs in USCC's service area. As of November 30, 2005, only 34 percent of the nearly 1500 PSAPs in USCC's service area have been upgraded to provide Phase II service.

Because these factors are clearly outside of its control, USCC hereby requests a limited, six-month waiver of the 95 percent handset penetration deadline so that it can launch a major notification and marketing campaign early next year directed to its customers with either non-compliant handsets or handsets with unidentified GPS-capabilities.² Although this campaign will build on USCC's experiences to date with other campaigns to promote handset upgrades, it will be unlike any campaign conducted to date because its exclusive focus will be on E911 compliance. USCC will take multiple steps to ensure that these customers are effectively notified about the 95 percent GPS-capable handset penetration requirement and will provide improved handset upgrade offers, including at least one free phone offer for customers in every revenue category. Under the Commission's waiver standard, USCC submits that its limited, narrowly-tailored, six-month waiver request is in the public interest and should be granted because it describes circumstances beyond USCC's control that prevented compliance with the handset penetration deadline and identifies a clear path to full compliance.

The instant filing has been delayed by a change in the underlying statistics about the GPS-capabilities of the handsets utilized by USCC's customers. USCC's November 1, 2005 quarterly E911 implementation report indicated that: (i) it had identified GPS capabilities in the handsets utilized by 86 percent of its customers, (ii) 94 percent of these handsets were GPS

² This six-month waiver request presumes that a sufficient number of customers with non-compliant or unidentified handsets decide to upgrade to GPS-compliant handsets. Although USCC hopes this new notification and marketing campaign will achieve this goal, its ultimate success depends on customer behavior that USCC does not control. USCC will update the Commission on the progress of this campaign but may require an additional extension of the handset penetration deadline to achieve full compliance.

capable, and (iii) that it expected to reach 95 percent compliance among these customers by December 31, 2005. The November report also indicated that USCC expected the number of customers using handsets with unidentified GPS capabilities (14 percent at the time) to decrease as the company continued its marketing and promotional campaigns to convince its customers to upgrade their handsets. Since filing the November quarterly report, USCC has continued monitoring its handset sales and continued researching the GPS capabilities of the unidentified handsets.

Based on its November 1, 2005 statistics, USCC intended to file a Notice of Compliance in this docket confirming that it had reached the 95 percent compliance benchmark among customers using handsets with identified GPS-capabilities, along with a request for a limited conditional waiver for more time to determine the GPS-capabilities of the unidentified handsets and/or convince customers with non-compliant or unidentified handsets to upgrade their handsets. This plan changed earlier this month, however, when USCC's marketing and regulatory compliance staff were able to determine that over 250,000 handsets previously included in the unidentified handset category were in fact non-compliant. This determination changed USCC's handset penetration compliance statistics and accordingly required a change in USCC's instant pleading from a Notice of Compliance to a Request for a Limited Waiver.

I. INTRODUCTION AND SUMMARY

USCC is a Tier II carrier that historically served predominantly rural markets. It has devoted substantial financial and personnel resources to accelerate the deployment of Phase I and Phase II E911 service throughout its service area. This commitment has produced an exemplary series of E911 deployment successes.

In late 2001, 67 percent of USCC's network utilized the TDMA air interface while 33 percent utilized a CDMA air interface. USCC's air interfaces were mixed because, as a

predominantly rural carrier, USCC typically selected the air interface used by larger carriers serving nearby population centers in order to maximize roaming revenue. Faced with the abandonment of TDMA technology by the industry, USCC embarked on an ambitious, four-year, multi-million dollar project to overlay CDMA 1XRTT technology on its entire network. One significant benefit from this overlay was that it permitted USCC to offer, for the first time, a compliant Phase II handset solution to customers in its former TDMA markets. USCC completed this CDMA overlay 6-12 months ahead of schedule (depending on the market) and its efforts and expenditures to overlay its TDMA system became a basic reference point for the Commission when it subsequently considered E911 waiver requests from other non-nationwide carriers relying on a Phase II handset solution with TDMA systems.³

Since starting the CDMA 1XRTT overbuild, USCC has deployed Phase II service to over 440 PSAPs and complied with most of the interim handset penetration benchmarks well in advance of the deadlines established by the Commission.⁴ For example, in November 2002, USCC began selling the first GPS-capable handsets in its markets, approximately four months ahead of the Commission's deadline of March 1, 2003. Over 50 percent of USCC's new activations were GPS-enabled phones in June 2003, approximately five months ahead of the FCC's November 30, 2003 deadline. USCC made only GPS-capable handsets available for sale in its CDMA markets in May 2004 and by September 2004, only GPS-capable handsets were available in all its markets.

³ See, e.g., *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Petitions for Reconsideration of Phase II Waivers and Compliance Plans of Cingular Wireless, Nextel, and Verizon Wireless; Petitions for Reconsideration of Phase II Compliance Deadlines for Non-Nationwide CMRS Carriers of Alltel and Dobson*, 18 FCC Rcd. 21838 (2003).

⁴ See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Call Systems, Phase II Compliance Deadlines for Non-Nationwide CMRS Carriers*, Order to Stay, 17 FCC Rcd. 14841 (2002) ("Order to Stay").

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USCC personnel maintain regular communications with PSAPs in its service areas. In the past five quarters, USCC has achieved a 100 percent deployment rate for PSAPs ready to utilize Phase II information and secured extensions with all requesting PSAPs needing additional time to upgrade their facilities. In cooperation with the local PSAPs, USCC was the first wireless carrier to begin Phase II deployment in both Wisconsin and Maine. USCC has also proactively communicated with PSAPs in markets it recently acquired to ensure that E911 service is deployed as expeditiously as possible.

As detailed more fully below, despite USCC's efforts to induce handset upgrades by its existing customers, a core group of long-time customers with relatively low monthly usage levels have so far been unwilling to upgrade their non-compliant or unidentified handsets. A significant percentage of these customers live in relatively rural areas with at least some terrain limitations on coverage, a situation that makes relatively lower-powered, Phase II compliant digital handsets less than attractive. Another cause of the low levels of GPS-compliant handset penetration among these long-term customers is the very low level of Phase II deployment by PSAPs throughout USCC's service area. The present unavailability of Phase II service removes whatever incentive these customers had to go to the bother of upgrading their handsets since they will be unable to enjoy the primary benefit from the handset upgrade.

Because it has been prevented from fully complying with the handset penetration requirement due to circumstances beyond its control, USCC hereby requests a six month waiver of the handset penetration deadline so that it can launch a major new marketing and customer notification program designed to overcome the inertia that has beset this core group of long-term

subscribers and induce a sufficient number to upgrade their handsets.⁵ The program will notify customers with non-compliant or unidentified handsets about the 95 percent penetration requirement through direct mail, text messages to consumer handsets and follow-up telephone calls (if necessary). The campaign is designed to remove some obstacles that have likely discouraged these customers from upgrading previously, including making at least one free phone available to every customer segment and replacing mail-in rebate requirements with immediate in-store credits to eliminate any customer concerns regarding delays in processing rebates.

II. USCC'S REQUEST FOR A LIMITED WAIVER

The Commission has the authority to waive its rules for good cause shown.⁶ In addition, where it would be inequitable, unduly burdensome or contrary to the public interest to enforce a particular rule in light of the unique or unusual factual circumstances, or where the applicant has no reasonable alternative, a waiver is appropriate.⁷ In the E911 context specifically, the Commission has waived or stayed certain of its deadlines or requirements when circumstances beyond the control of carriers prevented full compliance.⁸ Where a carrier has taken "concrete steps necessary to come as close as possible to full compliance" and demonstrated a "clear path to full compliance" in the future, a waiver is appropriate.⁹

⁵ As noted earlier, USCC hopes this campaign will induce enough customers to upgrade their handsets so that it can achieve a 95 percent penetration level. However, the ultimate success of this campaign depends on the actions of its customers that are not within USCC's control.

⁶ See 47 C.F.R. § 1.3.

⁷ *Id.*

⁸ See, e.g., *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Fourth Memorandum Opinion and Order, 15 FCC Rcd. 17442 (2000) (extending the timetables for handset deployment and granting a limited waiver to VoiceStream); *Order to Stay*, ¶ 1 (granting a stay of the Phase II implementation deadlines for Tier II and Tier III carriers).

⁹ See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Fourth Memorandum Opinion and Order, 15 FCC Rcd. 17442, 17458 (2000).

A. USCC Has Taken Concrete Steps Necessary To Come As Close As Possible To The 95 Percent Penetration Benchmark Throughout Its Markets.

Throughout 2005, USCC has undertaken a series of steps, including enhanced marketing campaigns offering free or deeply discounted phones to more and more of its customers, in an effort to increase penetration of location-capable handsets. First, USCC made all the handset offers and the promotional pricing previously reserved for new customers available to its existing customers who renewed their service contracts. Second, in its marketing campaigns, USCC relaxed more and more of its standard eligibility requirements for existing customers to qualify for new handsets at subsidized prices.

During these campaigns, USCC made GPS-capable handsets available at a variety of price points so that all of its customers had access to a compliant phone. Prices for GPS-compliant handsets varied throughout 2005 based on the markets involved, competitive conditions and customer usage levels. Typically, three different handsets were featured in these marketing efforts, ranging in price from free to \$49-\$79 for higher-end handsets with a two-year service contract.¹⁰ USCC subsidized the prices of these handsets in the range of \$100 to \$150 depending on handset, the market and the time of year the customer upgraded his or her handset. USCC also increased the frequency of its direct marketing campaigns promoting equipment upgrades to its customers with non-compliant handsets. USCC tripled the number of direct marketing campaigns for these customers. Because typical direct marketing campaigns included customer contacts via a direct mail piece, an SMS text message sent to the customers' handset and a follow-up telemarketing call, many customers with non-compliant handsets received anywhere from 6-9 contacts about USCC's handset upgrade offers.

¹⁰ Customers were also given the option to pay slightly more for the handset (usually about \$20-\$30) and sign a shorter term contract, or pay full price for the handset with no contract required.

USCC also instituted a number of changes to its equipment policies in 2005 to remove non-compliant handsets from its network. For example, USCC customers can no longer receive a loaner handset that is not GPS-compliant even if the phone turned in was not location-capable. This policy change was important because many loaner phones become *de facto* upgrades for requesting customers. Similarly, USCC eliminated its like-kind handset replacement policy so that any handset provided by USCC's handset insurance provider is now required to be GPS-compliant. Instead of receiving a like-kind replacement, customers are now eligible to receive a GPS-compliant handset at a discounted price. USCC also decided to stop repairing damaged or compromised handsets that were non GPS-compliant. Like the new like-kind policy, customers with non-compliant phones are now eligible to receive a GPS-compliant handset at a discounted price. Finally, USCC decided not to activate customer-owned handsets on its network unless the equipment was GPS-compliant and prohibited phone-swapping among family members in a family talk plan if a non-compliant cell phone was to be transferred among users on the plan.

USCC's stepped-up marketing efforts offering free or deeply discounted GPS-compliant handset upgrades collectively reached 86 percent of USCC's customers in its consumer and small business segment with non-compliant handsets at least once in 2005, while 67 percent of customers in this segment using handsets with unidentified GPS capabilities received at least one direct mail equipment upgrade offer in 2005.¹¹ These marketing campaigns plus the changes in USCC's equipment policy contributed to a 12 point increase (approximately) in the company's GPS-compliant handset penetration in 2005 among customers using handsets

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with identified GPS capabilities.¹² While the rate of increase in USCC's GPS-compliant handset penetration slowed in 2005 as USCC moved closer to 95 percent, these marketing efforts and the increase in USCC's GPS-compliant penetration levels clearly demonstrate that USCC has taken concrete, definitive steps toward achieving compliance with the Commission's 95 percent handset penetration benchmark.

B. USCC's Path To Full Compliance

Early next year, USCC will launch a major notification and marketing campaign directed at its customers with non-compliant or unidentified handsets. Although it will draw on USCC's experience to date in developing and monitoring its various promotional campaigns to encourage handset upgrades, this campaign will be unlike any campaign USCC has undertaken to date.

First, unlike earlier direct marketing campaigns that were focused more on new features and improved functionality with only minor mentions of E911 capabilities, this campaign will focus almost exclusively on the E911 handset penetration deadline requirement and the benefits (in many instances the potential benefits until the local PSAPs deploy Phase II) from the enhanced location accuracy. Second, unlike earlier direct marketing campaigns where USCC's promotional pricing for new customers was made available to existing customers, an entirely separate pricing and promotional plan will be developed exclusively for customers with non-compliant or unidentified handsets.

The campaign will initially focus on notifying and educating USCC's customers with non-compliant or unidentified handsets about the 95 percent GPS-capable handset penetration requirement. This notice will be accomplished in a series of _____ separate,

¹² This reported percentage increase includes the reallocated, previously unidentified handsets in the calculations for both 2004 and 2005.

coordinated communications including:

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Each of these notices

will also include language informing the customer that he/she will be required to take some type of action to comply with/respond to the GPS-compliant handset penetration deadline.

As noted above, this campaign will also include a separate pricing matrix for customers with non-compliant or unidentified handsets. This matrix will include at least one free handset for every customer regardless of average revenue. This matrix will include handset offers that USCC hopes will be "too good to refuse." This promotion will also offer these customers instant rebates at the point of purchase rather than mail-in rebates, as many customers are reluctant to provide the extra cash outlay upfront due in part to their concern that the follow-up mailing will not occur.

In sum, this new campaign will address many obstacles between these customers and the purchase of an upgraded handset. USCC will closely monitor this campaign and plans to assess its customers take rates on or around April 15, 2005. Depending on the results, USCC is prepared to implement a so-called hotline campaign, where customers will automatically be hotlined to a call center when they attempt to use their handset where they will be reminded

about and offered an upgraded handset either directly from USCC or through a retail store at the available promotional prices.¹³

USCC submits that this plan demonstrates a path to full compliance. Like the Commission envisioned when it initially set the handset penetration deadline, USCC's initial handset penetration compliance strategy relied on attractive handset upgrade offers and on marketplace forces to reach compliance with the 95 percent target. USCC is now prepared to take its compliance efforts one step further and begin pushing customers with non-compliant or unidentified handsets to upgrade to a compliant phone.

III. GRANT OF THE LIMITED WAIVER REQUESTED IS IN THE PUBLIC INTEREST.

As demonstrated in the numerous requests for waiver of the handset penetration deadline filed in this proceeding, wireless carriers cannot control their customers' behavior. USCC's inability to reach the 95 percent penetration benchmark is due in significant part to the reluctance of a subset of long-term customers with relatively low monthly usage levels to upgrade their handsets.

Based on its experience through the 2005 marketing campaigns and further analysis of its customer database, USCC has made a number of determinations about its customers with non-compliant handsets in its consumer/shall business customer segment. Despite the fact that 86 percent of these customers received at least one handset upgrade offer in 2005, very few actually upgraded their handsets.

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¹³ Although customers will be hotlined to the USCC call centers, service will not be interrupted.

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This information suggests an entirely different set of assumptions should be applied to these customers. Most obviously, as evidenced by the 2005 upgrade campaigns, these customers are not responsive to the new features and functionality of upgraded handsets. Some of these customers are also unwilling to upgrade because they simply do not use their handsets enough to justify changing them. Moreover, a handset change requires customers to learn new handset features, reenter contact and other information stored on their current handset and/or purchase new accessories. Given their long-term tenure, these customers are satisfied with the current features of their handsets and see no reason to upgrade.

As noted earlier, USCC has a number of predominantly rural markets in its service area. Some of these long-term customers undoubtedly live in rural areas and are unwilling to part with their three-watt analog handsets because they provide significantly better coverage/range in remote areas than any digital handset. The Commission recognized as much when it required wireless carriers to continue to provide analog service until February 2008: “[t]he immediate elimination of the analog requirement . . . could have a significant impact on some consumers” in part because there are “some geographic areas in which digital coverage is currently insufficient.”¹⁴

Strict enforcement of the December 31, 2005 deadline in these circumstances will leave USCC no choice but to require these customers to swap-out their handsets or discontinue

¹⁴ See *Year 2000 Biennial Regulatory Review – Amendment of Part 22 of the Commission’s Rules to Modify or Eliminate Outdated Rules Affecting the Cellular Radiotelephone Service and other Commercial Mobile Radio Services*, 17 FCC Rcd. 18401, ¶¶ 22, 24 (2002).

their wireless service. The coerced trade-in of analog handsets at this time will likely cause coverage losses due to the differences in range between three-watt analog handsets and any Phase II compliant digital handset currently available.¹⁵ Thus, service can be terminated entirely or just reduced from current levels, a result that no one wants and the Commission should not compel.¹⁶ The Commission itself reached this very conclusion when it ultimately decided to suspend enforcement action against VOIP providers that had not received acknowledgements about potentially diminished E911 service from 100 percent of their customers.¹⁷ By reducing the enforcement threshold to 90 percent, the Commission recognized that VOIP providers (like wireless carriers) could not control the behavior of its customers and that some VOIP service with limited E911 capacity was better than no service at all.

Most of the handset penetration waiver requests have also noted that customer churn among wireless carriers is lower than anticipated by the Commission when it adopted the

¹⁵ See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request for Enhanced 911 Phase II Waiver by Northeast Communications of Wisconsin, Inc. dba Cellcom*, FCC 05-200 (released Dec. 8, 2005) at ¶ 17 ("We find that customers using higher-power analog phones likely would find it more difficult and, at times, impossible, to contact a PSAP in some particularly rural parts of Cellcom's service area if they upgraded to lower-power, yet location-capable, digital phones."); see also *Alltel Corporation Petition for Limited Waiver*, CC Docket No. 94-102 (filed September 30, 2005) ("*Alltel Waiver Request*") at 8.

¹⁶ The Commission has also repeatedly recognized that requiring carriers to force rural customers with three-watt analog phones to "upgrade" to digital handsets under these circumstances would actually result in decreased access to emergency services. See, e.g., *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Request for Waiver by Southern Communications Services, Inc. d/b/a SouthernLINC Wireless*, FCC 05-188 (released Nov. 3, 2005) at ¶ 19 (recognizing that "strict enforcement of the December 31, 2005 deadline would impair the ability of certain 911 callers to reach emergency assistance, and thus 'would result in consumers having decreased access to emergency services'").

¹⁷ See Public Notice, *Enforcement Bureau Provides Further Guidance to Integrated Voice over Internet Protocol Service Providers Concerning the July 29, 2005 Subscriber Notification Deadlines*, WC Docket Nos. 04-36, 05-196, DA 05-230 (released September 27, 2005).

December 31, 2005 deadline.¹⁸ Carriers such as USCC have improved their service offerings and have experienced an increase in customer satisfaction. As a result, customers are remaining with USCC in greater numbers, thereby reducing the opportunity to use this naturally occurring market-based phenomenon to increase the penetration of GPS-compliant handsets. For the past two years, USCC has experienced a churn rate among its consumer/small business customers of 1.64 percent monthly, or approximately 19.68 percent annually.¹⁹ This is significantly below the 25 percent annualized churn rate the Commission relied on in establishing the December 31, 2005 deadline to achieve 95 percent benchmark handset penetration.

Churn among USCC's core customers in the consumer and small business segment is less than half of the estimate relied upon by the FCC to justify establishing the December 31, 2005 handset penetration deadline. Additional analysis of USCC's churn rate demonstrates that the FCC greatly overestimated the impact of the churn rate on the ability of wireless carriers to reach the 95 percent penetration benchmark by the end of 2005.

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¹⁸ See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Third Report and Order, 14 FCC Red. 17388, 17411-12 (1999) (adopting the initial penetration benchmarks based on estimated annual churn rates of 24 or 25 percent).

¹⁹ USCC's churn rate is even lower if one excludes those customers that are terminated involuntarily, for example, for non-payment. This accounts for approximately 40 percent of the churn rate cited above. The rate of churn for customers that voluntarily terminate is approximately 12 percent on an annualized basis.

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This analysis plainly suggests it is unreasonable to insist on full compliance with the 95 benchmark when a key assumption utilized by the FCC in establishing the December 31, 2005 deadline is seriously off the mark, at least as applied to a core group of long-time USCC customers.

In addition to the inertia among long-term customers noted above, another reason these customers are reluctant to upgrade their handsets is the lack of PSAP readiness to receive and utilize Phase II location information. Predominantly due to funding issues that are beyond the control of both USCC and the PSAPs, only 40 percent of the PSAPs in USCC's service area are capable of receiving and utilizing Phase II location data.²⁰ Where the PSAP's facilities have not been upgraded, there is very little incentive for an otherwise reluctant customer to replace his or her handset with one that contains location-capable technology regardless of the pricing incentive. Moreover, if local PSAPs have not been upgraded, USCC cannot advertise the availability of location technology assistance to encourage these otherwise reluctant customers to upgrade their handsets.

²⁰ See also *Alltel Waiver Request* at 18 (asserting that fewer than 25 percent of PSAPs in Alltel's service area will be ready to receive and utilize phase II location information by December 31, 2005); *Sprint Nextel Corporation Request for Limited Waiver*, CC Docket No. 94-102 (filed September 29, 2005) at 29-32 (estimating that by December 31, 2005, less than 44 percent of its subscribers would reside in an area with a PSAP that is capable of receiving and utilizing phase II information); *Verizon Wireless Request for Limited Waiver*, CC Docket No. 94-102 (filed October 17, 2005) at 11.

This scenario is plainly evident in USCC's markets where there is a very high correlation between customers with non-compliant handsets in the consumer/small business segment and low PSAP Phase II deployment. For example, ten percent of USCC's customers with non-compliant handsets are located in markets where 0 percent of the PSAPs (California) or 2.2 percent of the PSAPs (Oklahoma) have been upgraded to provide Phase II service. Approximately five percent of USCC's customers with non-compliant handsets are located in its Idaho markets where only 11 percent of the PSAPs have been upgraded to provide Phase II service, and another 15 percent of these customers live in markets (Oregon and North Carolina) where fewer than 29 percent of the PSAPs have been upgraded.²¹ In sum, over 30 percent of USCC's customers with non-compliant handsets live in markets where less than one in three PSAPs have been upgraded to provide Phase II service.²²

Given these statistics, there can be little wonder that USCC has so far been unable to convince its long term customers to upgrade. For most of these customers, there is much to lose (better coverage, familiarity with handset features) and nothing to gain (at least currently) from an upgrade. These statistics again demonstrate that it would be unreasonable to subject USCC to an enforcement action for failing to satisfy the handset penetration deadline when the location information that would have been provided by the extra compliant handsets required to be deployed was entirely useless to 60 percent of the PSAPs in its service area. In these areas in

²¹ Another 33 percent of USCC's customers with non-compliant handsets live in markets (West Virginia, Missouri, Illinois, Wisconsin) where less than 40 percent of the PSAPs have been upgraded to provide Phase II service. This means that a total of 70 percent of USCC's customers with non-compliant handsets live in markets where less than half of the PSAPs provide Phase II service.

²² A similar situation exists for customers with unidentified handsets in the consumer/small business segment. Over 60 percent of USCC's customers reside in four states (Illinois, Wisconsin, North Carolina and Oklahoma) where the PSAP Phase II deployment percentages range from 2.4 percent to 39.1 percent.

particular, public safety is not diminished by permitting USCC additional time to achieve compliance with the 95 percent handset penetration benchmark.

IV. CONCLUSION

For all these reasons, USCC submits that its requested limited waiver of the GPS-compliant handset penetration requirement is in the public interest and respectfully requests that it be granted.

Respectfully submitted,

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